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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

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| UNITED STATES OF AMERICA, Plaintiff, vs. BRENDAN JOHN JONES, Defendant. | CR 18-106-BLG-DLC OFFER OF PROOF |
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The defendant, Brendan John Jones, has filed a motion to change his plea to guilty to the Indictment, charging him in Counts I and II of the Indictment with Possession of Firearm not registered in National Firearms Registration and Transfer Record, in violation of 26 U.S.C. § 5861(d). Each offense carries a penalty of ten years imprisonment, a \$10,000 fine, three years of supervised release, and a \$100 special assessment. Counts III and IV of the Indictment charge the defendant with

Possession of Firearm not Identified by Serial Number, in violation of 26 U.S.C. § 5861(i), 5871. Each offense carries a penalty of ten years imprisonment, a \$10,000 fine, three years of supervised release, and a \$100 special assessment.

The defendant also agrees to plead true to the forfeiture allegation contained in the Indictment.

There is no plea agreement. Resolution of the case without a plea agreement is the most favorable resolution for the defendant, and the most favorable offer made to the defendant. See *Missouri v. Frye*, 566 U.S. 134, 145-46 (2012).

Elements. In order to prove the case against the defendant at trial, the United States would have to prove the following elements beyond a reasonable doubt:

Possession of Firearm Not Registered in National Firearms Registration and Transfer Record – Counts I and II:

First, the defendant knowingly possessed a firearm;

Second, that this firearm was a silencer;

Third, the defendant knew of the characteristics of the firearm, that is, that it was a silencer;

Fourth, that this firearm was (or could readily have been put) in operating condition; and

Fifth, that this this firearm was not registered to the defendant in the National Firearms Registration and Transfer Record.

Possession of Firearm Not Identified By Serial Number – Counts III and IV:

First, the defendant knowingly possessed a firearm, as defined by the National Firearm Act; and

Second, the firearm was not identified by a serial number.

Proof. If called upon to prove this case at trial, and to provide a factual basis for the defendant's plea, the United States would present, by way of witnesses and documentary evidence, the following:

1. During the week of April 23, 2018, law enforcement received information that an individual known as "BJ," later identified as the defendant, was in possession of explosives.
2. On April 27, 2018, law enforcement met with a confidential source, who stated that the defendant was in possession of dynamite and was producing illegal silencers. The confidential source arranged for a meeting for the undercover agents with the defendant, scheduled for May 3, 2018.
3. On May 3, 2018, while acting in undercover roles, law enforcement officers met with the defendant at his business, Jones Auto Detailing, located in Miles City, Montana. The two agents met with the

defendant and discussed explosives. The defendant showed the officers dynamite that appeared to be old and deteriorated.

4. During that same visit, law enforcement asked the defendant about silencers for sale. The defendant stated that he made silencers out of Maglite flashlights. The defendant also stated that he had made a silencer out of an aluminum baseball bat. Preliminary arrangements were made by the undercover agents to purchase silencers and other explosives from the defendant at another time.
5. On May 8, 2018, law enforcement executed a search warrant at the defendant's business. Once inside and after the building was cleared, law enforcement located a shoe box on top of the soda machine that was identified as containing dynamite, homemade explosive devices, detonator cord and miscellaneous items. Also inside the business were two homemade silencers and a portion of another part used to manufacture a silencer. One of the silencers appeared to be made out of an Eason baseball bat and the other appeared to have been crafted from a bicycle stunt peg.
6. In the tool room located between the shop area and the front area, a Keystone Sporting Arms, Model Crickett, .22 caliber bolt action rifle,

serial number 376528, was recovered and was found to have the end of the barrel altered by placing threads on it. The threads were found to match that of the Easton baseball bat that had been manufactured as a homemade silencer. Law enforcement also observed slight threads in the black homemade silencer that enabled the silencer to be screwed onto the same rifle.

7. The same day as the execution of the search warrant, the defendant would be interviewed and confessed to possession of the explosives and the silencers. He also confessed as to the manufacture of the recovered silencers. None of the silencers recorded contained serial numbers.
8. On May 9, 2018, law enforcement conducted another interview of the defendant and he stated the following:
 - He confirmed that he manufactured the baseball bat silencer.
 - He confirmed that the baseball bat silencer was for the .22 caliber youth rifle in the shop and had been made to fit that firearm.
9. On or about May 23, 2018, law enforcement examined the items collected from the defendant's property. The following findings were reached:

- The silencer constructed from an Easton baseball bat was designed to act as a silencer and was not marked with a visible serial number or NFA number. Testing was conducted and it was found to be a silencer.
- The silencer constructed from a bicycle peg was designed to act as a silencer and was not marked with a visible serial number or NFA number. Testing was conducted and it was found to be a silencer.

10. On May 23, 2018, law enforcement reviewed information from ATF's National Firearms Act Branch, which indicated that there were not NFA firearms registered to the defendant.

DATED this 6th day of December, 2018.

KURT G. ALME
United States Attorney

/s/ Zeno B. Baucus
ZENO B. BAUCUS
Assistant United States Attorney